

DRAFT FOR CONSULTATION – NOT YET IN FORCE

Guidance on Condition D3 Reviewing approach

The Outline Content on which each Technical Qualification will be based will be subject to periodic review by the Institute for Apprenticeships.

As part of the evidence to inform its own review of a Technical Qualification under Condition D3.1, an awarding organisation should have regard to the outcomes of any review of the Outline Content by the Institute, as well as any feedback from the Institute or Ofqual on the Technical Qualification itself.

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Guidance on Condition H2 Moderation where an assessment is marked by a Centre and Condition TQ10 Moderation arrangements

Under Condition H2, an awarding organisation must have in place clear and effective arrangements for the Moderation of assessments that are marked by a Centre.

Moderation will only be relevant where an awarding organisation allows Core Skills and/or Occupational Specialism assessments to be marked by a Centre.

Condition TQ10 sets out some specific requirements in relation to Moderation of assessments in Technical Qualifications.

The purpose of Moderation is to allow the awarding organisation to ensure that Centres are applying the relevant mark scheme correctly and consistently. It is therefore an important part of ensuring that standards are maintained across the qualification.

Under Condition C2.3(j), an awarding organisation must set out in its specification for the qualification the Moderation processes which it has in place. In line with the requirements set under Condition TQ3.1(b), an awarding organisation must also set out its approach to Moderation in its assessment strategy.

In the guidance below we set out our expectations in relation to how an awarding organisation should determine its approach to Moderation.

- (a) Where marking by Centres is permitted, Assessors at a Centre will mark assessments using the awarding organisation's mark scheme. Where more than one Assessor marks an assessment or part of an assessment, within a single Centre, an awarding organisation should ensure that the Centre ensures that marking is consistent across all Assessors within that Centre.
- (b) Condition H2.3 requires that an awarding organisation is able to, and does, make changes to a Centre's marking where necessary. Condition H6.1(d) requires the results issued by an awarding organisation to reflect the outcome of any Moderation undertaken. Moderation must therefore take place before results are issued by the awarding organisation so that any necessary changes can be made before those results are issued¹.

¹ However, Learners must be notified of their preliminary result for any Centre-marked assessment under Condition TQ11, so as to be able to request a review of the Centre's marking prior to Moderation.

- (c) Moderation should be carried out by Assessors trained by awarding organisations in the standard expected, reviewing actual work produced by Learners in the Centre. We will expect an awarding organisation to have processes in place, including training and guidance, to ensure that the Moderation which it undertakes is effective, as required by Condition H2.1.
- (d) Moderation should be based on a sample of Learners from the Centre. An awarding organisation should ensure that the sample of work it uses for Moderation reflects the number of Learners at the Centre: the smaller the number of Learners the greater proportion of them would typically be included in the sample, and vice versa. An awarding organisation should also ensure that the sample includes work that is representative of the range of attainment demonstrated by Learners at that Centre.
- (e) An awarding organisation should consider the marks awarded by the Centre in terms of how far they correspond with those that the awarding organisation would give to the Learner in line with the mark scheme.
- (f) An awarding organisation may choose to set a level of tolerance by which the marks given to a Learner by a Centre may reasonably vary from those that would have been given by the awarding organisation. (This is on the basis that it may not be reasonable to expect exact agreement, and so a degree of variation may be allowed, within a certain tolerance.)
- (g) If the differences between the marks awarded by the Centre and by the awarding organisation are all within tolerance, then no adjustment is made to the Centre's marks. If the difference is judged to be outside of the tolerance, an adjustment may be made to that Centre's marks for that assessment.
- (h) If the awarding organisation is not able to determine the appropriate adjustments to make based on the sample, it should request additional samples of work from the Centre.
- (i) By exception, the awarding organisation may determine that the Centre's marks are not capable of correction by means of an adjustment, and that all of the Learners' work from the Centre must be re-marked.
- (j) In line with Condition TQ12, an awarding organisation must provide each Centre with feedback, explaining what the outcome of moderation was, and why decisions were made.

Guidance on Condition H6 Issuing results

Under Condition H6.1, an awarding organisation must issue results for all Technical Qualifications which it makes available. Where Learners are assessed in England, we expect an awarding organisation to issue results to the Institute for Apprenticeships or the Education and Skills Funding Agency, as relevant, which will then issue the Learner with a T Level certificate, where appropriate, on behalf of the Secretary of State.

We also expect an awarding organisation to issue results to a Learner or any Relevant Centre. In doing so it should make clear that what has been issued (for example a summary of results) is neither a Learner's overall result for his or her T Level, nor a certificate for that T Level or the Technical Qualification.

An awarding organisation must ensure that the results issued to a Learner provide sufficient detail to allow that Learner to make an informed decision as to whether to –

- (a) take any assessment again,
- (b) request a review of marking under Condition TQ16.

Guidance on Conditions I3 The design and content of certificates and I4 Issuing certificates and replacement certificates

Under Condition I4, an awarding organisation must issue certificates for a Technical Qualification to each Learner assessed outside England who is entitled to such a certificate.

We expect those certificates to include a concise indication of the content of particular Occupational Specialism(s) that a Learner has taken as part of the qualification.

Guidance on assessment objectives

Condition TQ2.1 allows us to set guidance in relation to the objectives to be met by any assessment for a Technical Qualification.

We set out our guidance for the purposes of Condition TQ2.1 below.

The Core Examination

We expect an awarding organisation to use the following assessment objectives in respect of each assessment for the Core Examination –

	Objective
AO1	Demonstrate knowledge and understanding of the content.
AO2	Apply knowledge and understanding of the content to different situations and contexts.
AO3	Analyse and evaluate information and issues related to the content

We expect an awarding organisation to ensure that there is a reasonable balance between the weighting of these assessment objectives and to explain its approach to their weighting in its assessment strategy.

The Core Project

The Department for Education's document entitled 'Implementation of T Level programmes: Government consultation response technical annex'² (the 'Technical Annex') states that awarding organisations should develop assessment objectives in relation to Core Project assessments that require Learners to –

- plan their approach to meeting the brief
- apply core knowledge and skills as appropriate
- select relevant techniques and resources to meet the brief
- use maths, English and digital skills as appropriate

- realise a project outcome and review how well the outcome meets the brief

We expect an awarding organisation to set a separate assessment objective in relation to each of the five requirements set out in the Technical Annex.

In setting those assessment objectives, we expect an awarding organisation to –

- (a) ensure that the assessment objective in relation to 'core knowledge and skills' is drafted in such a way as to be specific to the relevant Outline Content on core skills, and
- (b) weight the assessment objectives such that the assessment objective in relation to 'core knowledge and skills' is at least 50% with a reasonable balance between the remaining four assessment objectives.

Guidance on assessments

Condition TQ6.1 allows us to set guidance in relation to the assessment of technical qualifications.

We set out our requirements for the purposes of Condition TQ6.1 below.

Weighting of Core Assessments

We expect the Core Examination to represent a larger proportion of the Core Assessments than the Core Project.

As such, we expect the Core Project to account for between 25 – 40% of the total marks available for the Core Assessments.

In line with the requirements set under Condition TQ3.1(b), an awarding organisation must explain its approach to the weighting of the Core Assessments in its assessment strategy.

Guidance of recognition of prior learning

Under Condition TQ7.1, an awarding organisation must establish, maintain and comply with, a policy for the recognition of prior learning where appropriate.

In setting that policy we expect an awarding organisation to follow any requirements set by the Institute for Apprenticeships in this respect, and to revise its policy where the Institute revises its requirements.

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Guidance on standard setting for Technical Qualifications

Condition TQ8.2(b) allows us to specify requirements and guidance in relation to the setting of specified levels of attainment for Technical Qualifications.

We set out below our guidance for the purposes of Condition TQ8.2(b).

Evidence to be taken into account in setting specified levels of attainment

Condition TQ8.3 states that in setting the specified levels of attainment for a Technical Qualification which it makes available, an awarding organisation must have regard to an appropriate range of qualitative and quantitative evidence.

Condition TQ8.4 states that such evidence will only be appropriate if it includes evidence of –

- (a) the Level of Demand of the assessments for that qualification,
- (b) the level of attainment demonstrated in those assessments by an appropriately representative sample of Learners taking that qualification,
- (c) employers' expectations of the knowledge, skills and understanding necessary for Learners to reach the specified levels of attainment,
- (d) the level of attainment demonstrated by Learners taking that qualification in a –
 - (i) prior assessment (which was not for that qualification), whether or not that assessment was for a regulated qualification, or
 - (ii) prior qualification, whether or not that qualification was a regulated qualification, and
- (e) following the first year in which the qualification is awarded, the level of attainment demonstrated by Learners who have previously been awarded the qualification, and
- (f) where a different awarding organisation has previously made the qualification available, the specified levels of attainment set by that awarding organisation for the qualification.

Without prejudice to any requirements that Ofqual may set in relation to the weight to be given to evidence in the first awards, examples of the evidence that may be used

by an awarding organisation in setting the specified levels of attainment for a Technical Qualification which it makes available may include –

- grade descriptors for key grades in respect of Core Assessments and Occupational Specialism assessments,
- exemplification materials for key grades in respect of Occupational Specialism assessments,
- question papers/tasks and final mark schemes,
- senior Assessor input into decisions, for example comments on how the assessments have worked or are likely to work, and recommendations for the setting of specified levels of attainment,
- technical information about how the assessments, and/or any similar assessments previously and concurrently available, have functioned, for example mark distributions, mean marks, standard deviations and item-level statistics,
- samples of current Learners' work selected from a range of Centres and assessed/Moderated by Assessors/moderators whose work is known to be reliable,
- details of changes in entry patterns and choices of options,
- archive Learners' work exemplifying specified levels of attainment in previous assessments for the qualification, together with the relevant question papers/tasks and mark schemes,
- inter-awarding organisation evidence for Technical Qualifications,
- pertinent material deemed to be of equivalent standard from similar qualifications or other relevant qualifications,
- information on Learners' performance in previous assessments for the qualification, and
- marking guides for assessments where the evidence is of an ephemeral nature.

In determining whether it has sufficient evidence of the level of attainment demonstrated in the assessments for a Technical Qualification by an appropriate percentage of the Learners taking that qualification, an awarding organisation should consider whether the marks on its system reflect –

- all possible routes through the qualification, and

- a representative proportion of Learners' marks for the qualification.

Setting specified levels of attainment in the first year of awarding

In setting the specified levels of attainment for the first year in which it awards a Technical Qualification, an awarding organisation may place greater weight on qualitative evidence, although not to the exclusion of relevant quantitative evidence where available.

In subsequent years we will expect qualitative evidence to be supplemented with quantitative evidence from previous assessment series as this becomes available, such as the comparison of mean marks in particular assessments over time to help track variations in Levels of Demand from one year to the next.

Guidance on the general conduct of reviews and appeals

Awarding organisations are required to have in place arrangements for the review and appeal of marking and Moderation decisions in relation to the Technical Qualifications which make them available.

We set out below guidance on some points in relation to how an awarding organisation should approach the conduct of –

- (a) a review of Moderation under Condition TQ13,
- (b) an Administrative Error Review under Condition TQ15,
- (c) a review of marking of Marked Assessment Materials under Condition TQ16, and
- (d) an appeal in relation to Moderation or marking under Condition TQ17.2.

This guidance is intended to relate to the process adopted by an awarding organisation and – in relation to Conditions TQ16 and TQ17, where relevant – it should be read alongside our guidance on the substantive consideration of whether or not a Marking Error exists, as well as our 'Guidance on making changes to incorrect results' which forms part of the *Guidance to the General Conditions of Recognition*.³

Expert reports

As part of its review and appeal process, an awarding organisation can request expert evidence to assist with its determination. For example, it may request a report from a senior examiner.

However, where a senior examiner report is submitted, it should not be accepted without due challenge and scrutiny by the decision-maker. Such a report is one piece of evidence among others and, although it will be for the decision-maker to decide the weight to be accorded to it, that decision must be made consciously in each case applying the decision-maker's own judgment.

³ www.gov.uk/government/publications/guidance-to-the-general-conditions-of-recognition

Personal interest

Our conditions state that reviews and appeals should not be conducted by anyone with a personal interest in the outcome of a review or appeal.

A personal interest is a conflict of interest that relates to a particular individual. As such it falls within the definition of a conflict of interest in Condition A4.1(b) and (c).

A personal interest can be financial or non-financial in nature. So, for example, where a person carrying out an Administrative Error Review is related to the Learner who has completed the assessment, or to the original Assessor who marked it, that will be a personal interest and precluded by Condition TQ15.6. Likewise, where a person's salary is related to the number of Administrative Errors that he or she does, or does not, identify during reviews, that too would be a personal interest.

The relevant question to ask is whether the person carrying out the review has any reason to make anything other than a decision made in good faith in line with the relevant conditions, or whether an informed and reasonable observer would conclude that such a reason exists.

Reasons

Conditions TQ12, TQ13, TQ16 and TQ17 require an awarding organisation to give reasons for its determinations on reviews and appeals.

The provision of reasons is important in a number of respects. The discipline of providing reasons may serve to improve the quality of decisions by focusing the mind of the decision-maker. Robust reasons will also promote public confidence in the standards set in regulated qualifications, and may assist a Centre or Learner to more readily accept the awarding organisation's determination. Importantly, by allowing the Centre or Learner to make an informed decision as to whether it has good grounds to disagree with a determination, the provision of reasons supports any opportunity to request a further review or appeal.

The reasons provided by an awarding organisation should be adequate to fulfil these functions. What is adequate will depend on the context, including the type of issues raised in the request, the nature of the assessment and the type of review or appeal. However, we will expect any reasons provided by an awarding organisation to display the following basic attributes –

- (a) Reasons must be proper, adequate and intelligible.
- (b) Reasons must engage with the issues raised in the request for the review or appeal and allow the Centre or Learner to understand why a particular concern has not been accepted.

- (c) Reasons do not need to be lengthy but should allow the Centre or Learner to understand what conclusions have been reached on the principal important issues raised in the request.
- (d) Reasons should refer to the mark scheme, where appropriate. It will be insufficient to simply state that a Learner has not included certain material in his or her response to a task without showing how the inclusion of that material is required by the mark scheme.
- (e) Where an expert report is relied on, the reasons must outline what weight has been accorded to that report, and why.
- (f) There is no requirement for reasons to be recorded in a particular form. For example, for certain reviews, annotations on a script could be compliant with the requirement to provide reasons. However, in whatever form they are presented there must be sufficient detail to make the reasons clear.

Further opportunities for review or appeal

When providing its determination on a review or appeal to a Centre or Learner, an awarding organisation should clearly set out any further opportunity for review or appeal. Where such a further opportunity exists, an awarding organisation should not give the impression that its determination is necessarily the final part of the process.

Guidance on considering Marking Errors on a review or appeal

In our guidance above we address some procedural aspects relating to how reviews and appeals are conducted. In the guidance below we focus more specifically on an awarding organisation's substantive determination as to whether or not a Marking Error exists.

In relation to marking, an awarding organisation is required to have in place arrangements:

- for the review of the marking undertaken by the awarding organisation (Condition TQ16), and
- for the appeal of the result of an assessment following a review (Condition TQ17).

Anybody carrying out such a review or appeal must consider the original mark given by a trained Assessor and only make a change to the mark where the marking of the assessment included a Marking Error (as defined in Condition TQ23). An appeal may be brought on the basis that the marking (either in the original marking or on review) included a Marking Error, as well as on procedural grounds.⁴

A Marking Error is defined as:

The awarding of a mark which could not reasonably have been awarded given the evidence generated by the Learner, the criteria against which Learners' performance is differentiated and any procedures of the awarding organisation in relation to marking, including in particular where the awarding of a mark is based on -

- (a) an Administrative Error [as defined in Condition TQ23],
- (b) a failure to apply such criteria and procedures to the evidence generated by the Learner where that failure did not involve the exercise of academic judgment, or
- (c) an unreasonable exercise of academic judgment.

⁴ Appeals may be brought on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly. Such appeals on procedural grounds are not covered in this guidance.

Our guidance below comprises both general guidance on the purpose of the provisions and guidance on how we expect awarding organisations to approach the consideration of whether there has been a Marking Error.

Conditions TQ13 and TQ17 contain provisions relating to arrangements for the review of Moderation of a Centre's marking undertaken by the awarding organisation and appeals of the outcome of Moderation following a review. Anybody carrying out such a review must only make a change to the outcome of Moderation where the Moderation included a Moderation Error (which has a definition in Condition TQ23 which is similar to the definition of Marking Error). An appeal may be brought on the basis that the Moderation included a Moderation Error⁵, as well as on procedural grounds.

Below, we refer only to reviews of marking and appeals and the consideration of Marking Errors. However, the principles in our guidance apply to the consideration of Marking Errors in Centre-marked assessments and to the consideration of Moderation Errors (on a review or appeal).

⁵ The requirement for Moderation Errors to be considered on an appeal will only apply from such a date as is specified in, or determined under, a notice published by Ofqual.

Purpose of considering Marking Errors

A review or appeal may identify that there had been errors in the marking. Examples of this could include a clear and unambiguous failure to properly apply the mark scheme or the identification of unmarked creditworthy material (the latter being an Administrative Error which is encompassed in the definition of a Marking Error). Such errors must be corrected.

However, for many assessments, it is a misunderstanding to say that Learners have always been either given a 'right mark' or a 'wrong mark'. This is because those assessments require Assessors to use their academic judgment in deciding what mark to award.

It will often be the case that two trained Assessors, exercising their academic judgment reasonably and without making any mistake, would award different marks to the same Learner's answer. Following a review or an appeal, one such mark should not be replaced with another (often higher) such mark, simply because those carrying out the review or the appeal would have given a different mark if they were the original Assessor. Learners who request a review or appeal would then be unfairly advantaged over those who do not.

A review or appeal should not be an opportunity for a Learner to have a second go at getting a better mark. Such a review or appeal should only adjust a mark where there has been a Marking Error.

Guidance on approach to considering Marking Errors

On any review of marking (in line with Condition TQ16.5 and the definition of Marking Error in Condition TQ23) the Assessor carrying out the review must consider (in respect of each task in the assessment and the assessment as a whole) whether or not the original mark awarded could reasonably have been awarded. The definition of Marking Error does not set out an exhaustive list of what would constitute unreasonable marking and the Assessor must consider whether there has been such marking in each individual case.

However, the Assessor should take the following steps for each task in the assessment:

- Determine whether there has been an Administrative Error in the marking, such as a failure to mark a Learner's response, and correct any such error.
- Determine whether the task is one where there are only 'right' and 'wrong' marks or one where Assessors are required to exercise their academic judgment. If there are only 'right' and 'wrong' marks, determine whether the 'right' mark was given. Where the 'right' mark was not given, correct the mark. Otherwise, make no change to the mark.
- If the task requires Assessors to exercise their academic judgment:
 - First, determine whether the marking contains any errors which do not relate to an exercise of academic judgment. Where such an error is found, correct the mark.
 - Then determine whether the Assessor's marking contained any unreasonable exercise of academic judgment. Where this is found, the task should be remarked to the extent necessary to remove the effect of that unreasonable exercise of judgment.
 - Where there is no Marking Error make no change to the mark.

In making any of the above decisions on a review, the Assessor should have considered the Learner's answer, the mark scheme and any of the awarding organisation's marking policies which are relevant. The Assessor should document the reasons for each decision which is made.

We expect a similar approach to be followed on an appeal where an awarding organisation is considering whether there has been a Marking Error, with the exception that Condition TQ17 does not require that the appeal panel itself must carry out any remarking which is required.

In Condition TQ16.5(d), the reasons which are required to be documented on review are 'the reasons for any determination and for any change of mark'. The determinations referred to are decisions (in respect of each task in the assessment and the assessment as a whole), about whether or not the marking included a Marking Error. If a Marking Error is found, the reasons for the change of mark which is necessary to correct the effect of that Marking Error should be documented in line with our guidance on reasons elsewhere in this document. Condition TQ16.6(h) requires that the reasons to be provided are the reasons documented by the Assessor.

Condition TQ17.9 requires the appeals process to provide for the effective appeal of results on the basis that the marking of the assessment (or as the case may be the review of marking of Marked Assessment Material) included a Marking Error. In other words, an appeal may be brought on the basis that the original marking (unchanged following a review) included a Marking Error or that the remarking (which took place on a review) included a Marking Error.

An appeal should consider the original marking, the outcome of the review, including where relevant any remarking, and take into account any other relevant factors. The appeal panel must uphold the appeal if it considers that the original marking (unchanged following review) or any remarking on a review included a Marking Error.

If the appeals process is to be effective, in most cases the reasons documented on review will be relevant information which should inform consideration of the appeal.

In marking (or remarking) an assessment, Assessors can only make judgments in line with the mark scheme and other relevant procedures. If, following the awarding of marks, an awarding organisation considers that there is a problem with a mark scheme or a relevant procedure, the awarding organisation should take steps to resolve the issue in line with its Conditions of Recognition. We would not generally expect such problems to be dealt with through the review and appeal process.

Guidance on academic judgment

In considering whether or not there has been a Marking Error, the person(s) carrying out a review or appeal will often need to consider whether or not the marking of a task included any unreasonable exercise of academic judgment.

Assessors are appointed by awarding organisations because they have particular skills in the relevant subject area. Assessors are then trained by awarding organisations to ensure that they are prepared to carry out marking appropriately.

Assessors are often required to use these skills to make a professional judgment of what mark should be awarded to a particular answer. We refer to this as exercising academic judgment.

Where Assessors are required to exercise academic judgment, there will often be different marks which could reasonably be awarded for an answer (and a range of ways in which marks can be attributed to that answer) without a Marking Error being made. It is only where the Assessor determines that the original marking represents an unreasonable application of academic judgment that the mark should be changed.

The starting point for considering whether there has been such an exercise of academic judgment is therefore always the mark which is being challenged (and not any alternative mark which the Learner/Centre considers should have been awarded).

Reviews or appeals will be required to be considered in many different subjects and contexts. 'Unreasonable' should be given its normal meaning and a common sense approach should be adopted, taking into account all of the circumstances of the particular review or appeal (which include the mark scheme and relevant marking procedures).

Examples of cases where it might be appropriate to find that there has been an unreasonable exercise of academic judgment include but are not limited to:

- Where the marking of an answer is unduly strict or lenient, beyond the bounds of what might reasonably be expected of a trained Assessor properly applying the mark scheme.
- Where a piece of information given as part of an answer was not given a mark but where any Assessor acting reasonably and who had the appropriate knowledge and training should have given a mark.
- Where the marking of an answer suggests that the Assessor had no rationale for his/her awarding of marks.

An exercise of academic judgment will not be unreasonable simply because a Learner/Centre considers that an alternative mark should have been awarded, even if the Learner/Centre puts forward evidence supporting the alternative mark. A person carrying out a review or appeal should not consider whether an alternative mark put forward by a Learner/Centre would be a more appropriate exercise of academic judgment.

Awarding organisations have obligations to ensure that those carrying out reviews of marking are provided with training in relation to their role (Condition TQ16.6(c)) and monitored to ensure they are performing their role correctly and consistently (Condition TQ16.6(e)).

We expect that awarding organisations should, in line with these obligations, take particular steps to develop consistent practice over time in the making of decisions on whether there has been any unreasonable exercise of academic judgment leading to a Marking Error.

Guidance on Condition TQ21 Discovery of failure in assessment processes

Condition TQ21 requires an awarding organisation to take specified action where it discovers, through a review or appeal, that there has been a failure in its assessment process that may have affected other Learners.

When conducting a review or appeal, we will expect an awarding organisation to consider where any issue that it identifies may have affected other Learners and, where the answer may be yes, to take all reasonable steps to ascertain whether this is in fact the case.

Where that investigation establishes that other Learners have been affected by a failure in its assessment process, in considering how to correct or mitigate the effect of the failure, an awarding organisation must have regard to our 'Guidance on making changes to incorrect results' which forms part of the *Guidance to the General Conditions of Recognition*.⁶

⁶ www.gov.uk/government/publications/guidance-to-the-general-conditions-of-recognition